

81 JAN 1972

MEMORANDUM FOR: Deputy General Counsel

SUBJECT : Police Powers and Agency Control of the Guard Force

1. Preliminary consideration of the desirability of the Agency assuming the responsibility for the guard force at its buildings at the Seat of Government raises the question of whether or not such an action, if taken, would be in violation of Sec. 102(d)(3) of the National Security Act of 1947, as amended. This provides, inter alia, "That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions." It is not believed necessary to attempt a definition of police powers.

2. The legislative history of the National Security Act of 1947 shows the testimony of the various witnesses before the House Committee on Expenditures in the Executive Departments to be virtually unanimous with regard to the requirements that the Agency have no police, subpoena, or law-enforcement powers or internal-security functions. These witnesses included: Gen. Hoyt Vandenberg, Mr. Allen W. Dulles, Rear Adm. Thomas Inglis (Director of Naval Intelligence), and Adm. Forrest Sherman. It is noted that Adm. Inglis commented that he felt the Agency, in addition to having no police powers, should have no domestic-security functions other than those connected with the security of its own establishment. See "Legislative History of the Intelligence Agency" pp. 103 - 123, incl.

3. It is relevant to examine the authorities now in effect for use by the General Services Administration (GSA) guard force in carrying out its assigned responsibility for protecting Federal property. 40 USCA 318 provides that proper GSA officials may appoint uniformed guards as special policemen for duty in policing public buildings and other areas under the jurisdiction of the Administrator. Further, that such special policemen shall have the same powers as sheriffs and constables to enforce the laws enacted for the protection of persons and property, to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations made and promulgated for property under jurisdiction of GSA. This, of course, includes the power of arrest in appropriate circumstances. It is further provided that the foregoing jurisdiction shall be restricted to Federal property over which the United States has exclusive or concurrent criminal jurisdiction. This eliminates rental properties

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creating the obvious attendant problems. The Supplemental Appropriations Act, 1971, provides that the powers of special policemen would not be limited by the jurisdictional restriction contained in 318. Mr. Jacob B. Berkson, Deputy General Counsel of GSA, stated that there is some doubt as to whether or not this is permanent legislation. He further advised that permanent legislation is "in the mill." 318a authorizes appropriate GSA officials to make all needful rules and regulations for the governing of property and to annex such penalties within the limits of 318c as will ensure their enforcement. 318b provides, inter alia, for GSA, under appropriate conditions, to utilize facilities and services of existing Federal law-enforcement agencies and with their consent facilities and services of State or local agencies. This obviously could be of value in periods of emergency. 318c, previously referred to in 318a, provides that a violator of a rule or regulation promulgated pursuant to 318a shall be fined not more than \$50, or imprisoned not more than 30 days, or both. In addition, the Administrator of GSA is authorized by 40 USCA 490(a)(2) to furnish arms and ammunition for the protection force maintained by GSA. The Agency, of course, has this authority in Sec. 8(a)(1) of the CIA Act of 1949, as amended. In addition to actual building security, the Agency would of course have the responsibility for ticketing for parking violations as well as traffic control and other situations with respect to moving vehicles.

4. It is believed that the Agency, in furtherance of its security functions, including the responsibility to protect intelligence sources and methods, no doubt could establish a guard force of its own. However, it also seems quite clear that, in order to accomplish at least the kind of protection which is now supplied by GSA, it would be necessary to have the police and law-enforcement capabilities which have been assigned to the GSA guard force. No one appears to contend that it would be well for GSA to have less authority than it now possesses. In light of the clear wording of Sec. 102(d)(3), hereinbefore referred to, it appears quite evident that some sort of legislative authority would, perforce, have to be obtained from the Congress in order to match the GSA authorities. This should include the same authority for rental buildings as that granted for those over which the Government has exclusive or concurrent jurisdiction.

5. The question, then, appears to be whether or not the benefits to be gained by having our own guard force are such as to warrant assuming the problems involved in seeking the further appropriate legislation necessary to enable the proposed guard force to function at the level of effectiveness required, not to mention the obvious administrative problems which would be engendered by the adoption of relevant legislation.

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